

**NASD REGULATION, INC.
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondent.

Disciplinary Proceeding
No. C07010100

Hearing Officer—Andrew H. Perkins

**ORDER DENYING RESPONDENT'S MOTION TO STRIKE
COMPLAINANT'S PLEADINGS AND FOR IMPOSITION OF SANCTIONS**

Respondent _____ (“_____” or the “Respondent”) moved to strike the allegation in the first paragraph of the Complaint that Linsco/Private Ledger Corp. (“Linsco”) “terminated” his employment. The Respondent also moved to strike the contents of Exhibit “A” to the Complainant’s Statement of Undisputed Facts In Support of Complainant’s Cross-Motion for Summary Disposition (“Statement”), which the Department of Enforcement (“Department”) filed on March 7, 2002. (Mot. ¶ 1.) Exhibit A to the Statement is a printout of the “Registrations with Prior Employers” section of the Respondent’s CRD record, which states that the Respondent was “permitted to resign” from Linsco. The Department opposed the Respondent’s motion on the grounds that both documents were accurate at the time they were filed.

For the reasons discussed below, the Respondent’s motion is denied.

Discussion

I. The Complaint

The Department filed the Complaint on December 21, 2001. On December 31, 2001, ten days later, a Stipulated Award (“Award”) was entered in the NASD arbitration _____ and _____ v. *Linsco/Private Ledger Corp.*, No. 00-05533. (Mot. ¶ 7.) The Award ordered the NASD to permit Linsco to amend the Uniform Termination Notice For Securities Industry Registration (Form U-5) it had filed on the Respondent’s behalf to change the reason for termination from “permitted to resign” to “voluntary.” On or about January 24, 2002, Linsco filed the amendment, and the NASD thereafter changed the Respondent’s CRD record accordingly. On or about January 30, 2002, the Respondent notified the Department that he had voluntarily left Linsco and had not not been “terminated,” as alleged in the Complaint.

The Hearing Officer denies the Respondent’s motion to strike the allegation that Linsco terminated the Respondent in May 2000 because the allegation is accurate. When a registered representative leaves a member firm, the firm is obligated to file a Form U-5 on the representative’s behalf to “terminate” the representative’s registration with the NASD. Indeed, the Form U-5 is entitled a “Termination Notice for Securities Industry Registration,” and it requires the filing member to supply both the “Date Terminated” and the “Reason for Termination.” Thus, the use of the word “terminated” in the Complaint is accurate and appropriate.

II. The CRD Printout

The Respondent also complains that the Department included a printout of the “Registrations with Prior Employers” section of the Respondent’s CRD record because it states that the Respondent was “Permitted to Resign” from Linsco. The Respondent

This Order has been published by NASD's Office of Hearing Officers and should be cited as OHO Order 02-11 (C07010100).

argues that the Department filed the document in bad faith, knowing that it was inaccurate. The Department, on the other hand, argues that it is an accurate printout from his CRD record that the Department filed as proof of the Respondent's employment with Linsco. (Opp'n at 4.)

The Hearing Officer denies the Respondent's motion to strike the printout. It is a true copy of the Respondent's CRD record, and there is no evidence supporting the Respondent's accusation that the Department submitted the document to defame the Respondent or for some other improper purpose. Furthermore, there is no likelihood that the Hearing Panel would misunderstand the evidence. The evidence, including the Respondent's CRD record as a whole, clearly reflects that Linsco and the Respondent agreed that the Respondent left the firm voluntarily, a point the Department does not dispute.

Accordingly, the Respondent's Motion to Strike Complainant's Pleadings and to Impose Sanctions is denied.

IT IS SO ORDERED.

Andrew H. Perkins
Hearing Officer
For the Hearing Panel

May 21, 2002